

Amendment in the Nature of a Substitute
to H.R. 974

Offered by Mr. Oxley

Strike all after the enacting clause and insert the
following new text:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Small Business Inter-
3 est Checking Act of 2001”.

4 **SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
5 **THORIZED.**

6 (a) REPEAL OF PROHIBITION ON PAYMENT OF IN-
7 TEREST ON DEMAND DEPOSITS.—

8 (1) FEDERAL RESERVE ACT.—Section 19(i) of
9 the Federal Reserve Act (12 U.S.C. 371a) is amend-
10 ed to read as follows:

11 “(i) [Repealed]”.

12 (2) HOME OWNERS’ LOAN ACT.—The first sen-
13 tence of section 5(b)(1)(B) of the Home Owners’
14 Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by
15 striking “savings association may not—” and all

1 that follows through “(ii) permit any” and inserting
2 “savings association may not permit any”.

3 (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
4 tion 18(g) of the Federal Deposit Insurance Act (12
5 U.S.C. 1828(g)) is amended to read as follows:
6 “(g) [Repealed]”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall take effect at the end of the 2-year
9 period beginning on the date of the enactment of this Act.
10 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**
11 **THORIZED FOR ALL BUSINESSES.**

12 Section 2 of Public Law 93–100 (12 U.S.C. 1832)
13 is amended—

14 (1) in subsection (a)(2), by striking “Para-
15 graph” and inserting “Except in the case of any de-
16 pository institution which is prohibited by the appli-
17 cable law of any State from offering demand depos-
18 its, paragraph”;

19 (2) by redesignating subsections (b) and (c) as
20 subsections (c) and (d), respectively; and

21 (3) by inserting after subsection (a) the fol-
22 lowing:

23 “(b) Notwithstanding any other provision of law, any
24 depository institution may permit the owner of any deposit
25 or account which is a deposit or account on which interest

1 or dividends are paid and is not a deposit or account de-
2 scribed in subsection (a)(2) to make up to 24 transfers
3 per month (or such greater number as the Board may de-
4 termine by rule or order), for any purpose, to another ac-
5 count of the owner in the same institution. Nothing in this
6 subsection shall be construed to prevent an account of-
7 fered pursuant to this subsection from being considered
8 a transaction account (as defined in section 19(b) of the
9 Federal Reserve Act for purposes of such Act).”.

10 **SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL**
11 **RESERVE BANKS.**

12 (a) IN GENERAL.—Section 19(b) of the Federal Re-
13 serve Act (12 U.S.C. 461(b)) is amended by adding at
14 the end the following new paragraph:

15 “(12) EARNINGS ON RESERVES.—

16 “(A) IN GENERAL.—Balances maintained
17 at a Federal reserve bank by or on behalf of a
18 depository institution may receive earnings to
19 be paid by the Federal reserve bank at least
20 once each calendar quarter at a rate or rates
21 not to exceed the general level of short-term in-
22 terest rates.

23 “(B) REGULATIONS RELATING TO PAY-
24 MENTS AND DISTRIBUTION.—The Board may
25 prescribe regulations concerning—

1 “(i) the payment of earnings in ac-
2 cordance with this paragraph;

3 “(ii) the distribution of such earnings
4 to the depository institutions which main-
5 tain balances at such banks or on whose
6 behalf such balances are maintained; and

7 “(iii) the responsibilities of depository
8 institutions, Federal home loan banks, and
9 the National Credit Union Administration
10 Central Liquidity Facility with respect to
11 the crediting and distribution of earnings
12 attributable to balances maintained, in ac-
13 cordance with subsection (c)(1)(B), in a
14 Federal reserve bank by any such entity on
15 behalf of depository institutions.”.

16 (b) AUTHORIZATION FOR PASS THROUGH RESERVES
17 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-
18 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by
19 striking “which is not a member bank”.

20 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
21 Section 19 of the Federal Reserve Act (12 U.S.C. 461)
22 is amended—

23 (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),
24 by striking subparagraph (C) and redesignating sub-

1 paragraphs (D) and (E) as subparagraphs (C) and
2 (D), respectively; and

3 (2) in subsection (c)(1)(A) (12 U.S.C.
4 461(c)(1)(A)), by striking “subsection (b)(4)(C)”
5 and inserting “subsection (b)”.

6 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXI-**
7 **BILITY IN SETTING RESERVE REQUIRE-**
8 **MENTS.**

9 Section 19(b)(2) of the Federal Reserve Act (12
10 U.S.C. 461(b)(2)) is amended—

11 (1) in clause (i), by striking “the ratio of 3 per
12 centum” and inserting “a ratio not greater than 3
13 percent (and which may be zero)”; and

14 (2) in clause (ii), by striking “and not less than
15 8 per centum,” and inserting “(and which may be
16 zero),”.

17 **SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

18 (a) IN GENERAL.—Section 7(b) of the Federal Re-
19 serve Act (12 U.S.C. 289(b)) is amended by adding at
20 the end the following new paragraph:

21 “(4) ADDITIONAL TRANSFERS TO COVER IN-
22 TEREST PAYMENTS FOR FISCAL YEARS 2002
23 THROUGH 2006.—

24 “(A) IN GENERAL.—In addition to the
25 amounts required to be transferred from the

1 surplus funds of the Federal reserve banks pur-
2 suant to subsection (a)(3), the Federal reserve
3 banks shall transfer from such surplus funds to
4 the Board of Governors of the Federal Reserve
5 System for transfer to the Secretary of the
6 Treasury for deposit in the general fund of the
7 Treasury, such sums as are necessary to equal
8 the net cost of section 19(b)(12), as estimated
9 by the Office of Management and Budget, in
10 each of the fiscal years 2002 through 2006.

11 “(B) ALLOCATION BY FEDERAL RESERVE
12 BOARD.—Of the total amount required to be
13 paid by the Federal reserve banks under sub-
14 paragraph (A) for fiscal years 2002 through
15 2006, the Board of Governors of the Federal
16 Reserve System shall determine the amount
17 each such bank shall pay in such fiscal year.

18 “(C) REPLENISHMENT OF SURPLUS FUND
19 PROHIBITED.—During fiscal years 2002
20 through 2006, no Federal reserve bank may re-
21 plenish such bank’s surplus fund by the amount
22 of any transfer by such bank under subpara-
23 graph (A).”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
25 Section 7(a) of the Federal Reserve Act (12 U.S.C.

1 289(a)) is amended by adding at the end the following
2 new paragraph:

3 “(3) PAYMENT TO TREASURY.—During fiscal
4 years 2002 through 2006, any amount in the sur-
5 plus fund of any Federal reserve bank in excess of
6 the amount equal to 3 percent of the paid-in capital
7 and surplus of the member banks of such bank shall
8 be transferred to the Secretary of the Treasury for
9 deposit in the general fund of the Treasury.”.

10 **SEC. 7. RULE OF CONSTRUCTION.**

11 No provision of this Act, or any amendment made
12 by this Act, shall be construed as creating any presump-
13 tion or implication that, in the case of an escrow account
14 maintained at a depository institution in connection with
15 a real estate transaction—

16 (1) the absorption, by the depository institution,
17 of expenses incidental to providing a normal banking
18 function with respect to such escrow account;

19 (2) the forbearance, by the depository institu-
20 tion, from charging a fee for providing any such
21 banking function; and

22 (3) any benefit which may accrue to the holder
23 or the beneficiary of such escrow account as a result
24 of an action of the depository institution described
25 in paragraph (1) or (2),

1 may be treated as the payment or receipt of interest for
2 purposes of any provision of Public Law 93–100, the Fed-
3 eral Reserve Act, the Home Owners’ Loan Act, or the
4 Federal Deposit Insurance Act relating to the payment of
5 interest on accounts or deposits at depository institutions.